IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

JOSE ANTONIO PEREZ,	§	
	§	
Petitioner,	§	
	§	
VS.	§	Civil Action No. 3:17-CV-3319-D
	§	
LORIE DAVIS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the December 27, 2018 findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, and this habeas petition is dismissed with prejudice.*

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable

^{*}On January 23, 2019 petitioner filed a notice of appeal. Because petitioner is appealing an unappealable order, the filing of the notice does not deprive this court of subject matter jurisdiction to enter this order and the corresponding judgment.

whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

- () petitioner may proceed in forma pauperis on appeal.
- (X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in* forma pauperis.

SO ORDERED.

January 30, 2019.

SENIOR JUDGE